IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 23RD FEBRUARY 2007 / 4TH PHALGUNA 1928

MFA.No. 1396 OF 2000()

OPMV.923/1995 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, PERUMBAVOOR
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APPELLANT/PETITIONER IN OP(MV):

SIDDIQUE, AGED 39, S/O. KUNJUMOHAMMED,
PANAYAYAMPILLIL HOUUSE,
VALOOR DESOM, KALLUR,
VADAKKUMMURI VILLAGE,
CHERUVALLOOR P.O.,
MUKUNDAPURAM TALUK.

BY ADV. SRI.P.V.BABY
SRI.A.N.SANTHOSH

RESPONDENTS/RESPONDENTS IN O.P.(MV):

1. MANAGING DIRECTOR, K.S.R.T.C., TRIVANDRUM.

2. K.P. MANILAL, S/O. PADMANABHAN,
VELIYIL HOUSE, VAYALAR EAST,
PATTANAKKAD, CHERTHALA.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 23/02/2007, THE COURT ON THE SAME DAY, DELIVERED THE FOLLOWING:

P.R. RAMAN & SIRI JAGAN, JJ.

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M.F.A. NO. 1396 OF 2000

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DATED THIS, THE 23RD DAY OF JANUARY, 2007

J U D G M E N T

Raman, J.

Petitioner is the claimant in O.P. (MV) 923/95 on the file of the Motor Accidents Claims Tribunal, Perumbavoor. While the appellant was travelling as a pillion rider on motor cycle bearing Reg. No. KL-8 B 3707, a KSRTC bus bearing Reg. No. KL-15/1192 driven by the second respondent came and hit the motor cycle as a result of which the appellant fell down and sustained serious injuries. He preferred a claim petition claiming an amount of Rs. 1,50,000/- towards total compensation payable. The tribunal found that the accident was due to the negligence of the second respondent and that the appellant is entitled for reasonable compensation. Exts.A1 to A11 were produced by the appellant besides examining PWs 1 and 2. There is no evidence contra adduced by the respondents. The tribunal awarded a total compensation of Rs. 22,650/- along with interest at 12%. The tribunal awarded an amount of Rs. 6,000/- towards pain and suffering and Rs. 10,000/- towards permanent disablement. The appellant is

aggrieved in that compensation awarded under those heads are very meager and according to him, he is entitled for more compensation under these heads.

2. The nature of the injury suffered as proved in the case by Exts. A5 and A7 are (i) fracture of neck of scapula right, (ii) fracture 3-9-ribs right side and (iii) contusion right shoulder, rt. elbow and thorasic spine.

3. We find that having due regard to the nature of injuries suffered, the compensation awarded for pain and suffering as Rs. 6,000/- is too low. Considering the nature of the injuries suffered we award an amount of Rs. 4,000/- (four thousand) more towards pain and suffering, over and above the amount of Rs. 6,000/- already awarded. The nature of the injuries suffered and the medical certificate produced clearly would show that the appellant has suffered a permanent disability. Considering the totality of the facts and circumstances, we find that the appellant is entitled for a compensation of Rs. 20,000/- for permanent disablement in the place of Rs. 10,000/- already awarded by the tribunal.

4. Thus, the appellant will be entitled for a further amount of Rs. 14,000/- (Fourteen thousand) over and above the amount already awarded by the Motor Accidents Claims Tribunal. This will also carry interest at 9% from the date of petition till realization.

5. There will be a direction to the first respondent that if the amount already awarded by the Tribunal is not yet deposited or paid, the total compensation amount including the enhanced compensation awarded by this Court, shall be deposited within a period of four months from the date of receipt of a copy of this judgment. It will be open to the appellant to serve a copy of this judgment on the first respondent for information and compliance.

The appeal is allowed as above.

P.R. RAMAN,
(JUDGE)

S. SIRI JAGAN,
(JUDGE)

knc/-

P.R. RAMAN &
SIRI JAGAN, JJ.
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M.F.A. NO. 1396/2000
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J U D G M E N T

DATED: 23.2.2007.